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IN THE

Supreme Court of the United States

No. 77-1172

NATIONAL MUFFLER DEALERS ASSOCIATION, INC.,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

BRIEF FOR PETITIONER

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1977
No. 77-1172

NATIONAL MUFFLER DEALERS ASSOCIATION, INC.,

Petitioner,

-against-

UNITED STATES OF AMERICA,

Respondent.

BRIEF FOR PETITIONER

Certiorari has been granted herein to review the judgment of the United States Court of Appeals for the Second Circuit, entered in this case on November 21, 1977, affirming denial of Petitioner's application for a tax exemption as a "business league" pursuant to Section 501 (c)(6) of the Internal Revenue Code.

OPINIONS BELOW

The opinion of the Court of Appeals is reported at 565 F.2d 845 and appears in the petition to this Court for certiorari as Appendix A, page 1a. The opinion of the District Court, issued from the bench on May 24, 1977, has not been reported and appears in the petition to this Court for certiorari as Appendix B, page 8a.

JURISDICTION

The jurisdiction of this Court has been invoked pursuant to 28 U.S.C. § 1254(1). Petitioner's petition for a writ of certiorari was granted on May 15, 1978 (See 52a).[1]

STATUTORY AND REGULATORY PROVISIONS INVOLVED

Internal Revenue Code of 1954 (26 U.S.C.):

SEC. 501. EXEMPTION FROM TAX ON CORPORATIONS, CERTAIN TRUSTS, ETC.

1. 52a-Appendix, page 52.

(a) /as amended by Sec. 101(j)(3), Tax Reform Act of 1969, 83 Stat. 526/ Exemption From Taxation.--An organization described in subsection (c) or (d) or section 401(a) shall be exempt from taxation under this subtitle unless such exemption is denied under section 502 or 503.

* * * * *

(c) List of Exempt Organizations.--The following organizations are referred to in subsection (a):

* * * * *

(6) /as amended by Sec. 6(a), Act of November 8, 1966, 80 Stat. 1515/ Business leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

* * * * *

Treasury Regulations on Income Tax (1954 Code) (26 C.F.R.):

§ 1.501(c)(6)-1. Business leagues, chambers of commerce, real estate boards, and boards of trade.

A business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as

distinguished from the performance of particular services for individual persons. An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining, is not a business league, since its activities do not further any common business interest, even though all of its income is devoted to the purpose stated. A stock or commodity exchange is not a business league, a chamber of commerce, or a board of trade within the meaning of section 501(c)(6) and is not exempt from tax. Organizations otherwise exempt from tax under this section are taxable upon their unrelated business taxable income. See part II (section 511 and following), subchapter F, chapter 1 of the Code, and the regulations thereunder.

QUESTION PRESENTED

WHETHER THE INCOME TAX EXEMPTION GRANTED TO "BUSINESS LEAGUES" BY SECTION 501(c)6) OF THE INTERNAL REVENUE CODE IS DEFEATED BY THE FACT THAT ALL MEMBERS OF THE APPLYING ASSOCIATION HOLD A FRANCHISE FROM THE SAME FRANCHISOR.

STATEMENT OF THE CASE

Petitioner is a trade association comprised of muffler dealers throughout the country, all of whom are franchisees of Midas International Corp., - "Midas Muffler" dealers. Organized on January 8, 1971 under the New York

Not-For-Profit Corporation Law, petitioner sought, and ultimately received, recognition from Midas as a bargaining agent of the franchisees. The entire purpose of the association has been to redress the traditional economic imbalance inherent in the franchisor-franchisee relationship. (R. 35, CA 49)[2]

Other functions of the association include publication of a newsletter advising members of developments in relations with the franchisor and serving as a forum for the exchange of information and ideas and conducting an annual convention which addressed problems common to the members. (R. 30, CA 44) Petitioner's membership is comprised of Midas franchisees with approximately 620 shops, representing 81% or 82% of the Midas shops in the country. (R. 33, CA 47)

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2. R. 35-Record of District Court Transcript, page 35; CA 49- Court of Appeals Joint Appendix, P. 49).

The purposes of the petitioner association, however, are also well articulated in Article I of its by-laws:

> The purposes of this Association are to foster and promote the interests of those individuals, partnerships and corporations who are engaged in business as muffler dealers and installers and related activities, to promote cooperation and mutual interest among its members, to advance the trade and commerce of its members, to encourage the exchange of ideas among its members for their common good and welfare, to secure, classify and disseminate to its members all information essential or helpful in the conduct of their business.
>
> The Association shall do anything necessary and proper for the accomplishment of any of the foregoing purposes or any other purpose which may be recognized as a proper and lawful objective of trade associations, all of which shall be consistent with the public interest, as well as in the interest of the members. (27a)

Petitioner seasonably sought exemption as a business league pursuant to Section 501(c)(6), which exemption was denied by the Internal Revenue Service (IRS). Having thereafter exausted its administrative remedies, paid the taxes under protest and complied with

all prerequisites to an action for a refund, this action was commenced in the District Court for the Southern District of New York on July 1, 1975. (Complaint, without exhibits, appears at 7a) Jurisdiction of the District Court was based upon 28 U.S.C. § 1346(a)(1). After a trial before Hon. Lawrence W. Pierce on May 24, 1977, the complaint was dismissed. (51a) By decision dated November 21, 1977, the judgment of the District Court was affirmed by the Court of Appeals for the Second Circuit. (51a)

The essential contention of the petitioner is that it is a "business league" entitled to the exemption conferred by Congress. The respondent contends essentially that the exemption is lost because petitioner's members are all franchisees of one franchisor and do not, therefore, constitute a "line of business" as contemplated by the pertinent IRS regulation.

In affirming the dismissal of petitioner's action, the Second Circuit, in essence, has adopted the respondent's contention.

SUMMARY OF ARGUMENT

Appellant contends that it has been improperly denied the income tax exemption granted to "business leagues" by Section 501 (c)(6) of the Internal Revenue Code. The basis of the denial is that all members of the Appellant association hold a franchise from one common franchisor. Appellant contends that such fact cannot defeat the exemption.

Congress has nowhere defined the term "business league" and neither the legislative history nor the rationale for the exemption justifies withholding the exemption from a trade association, the membership of which is limited to franchisees with a common franchisor. The members of such an association

have a common problem not shared by others who may be involved in the same business.

Much as employees joined together in labor unions to assist them in creating an economic balance vis-a-vis their employers, the franchisee has been forced to join together with others so that he is not overwhelmed by the economic might of the franchisor. The business league exemption was granted by Congress long before the existence of franchisee associations and, undefined in the legislation, the term was clearly intended to be sufficiently flexible to encompass within its meaning an organization such as an association of franchisees.

The franchisee association enables the individual franchisee to establish an effective economic counterbalance against the large, all-powerful franchisor. This balancing of economic power is clearly in furtherance of the economic public policy

of the United States and was intended by Congress to be encouraged.

ARGUMENT

Section 501(c)(6) of the Internal Revenue Code (IRC) provides an exemption from income taxation for the following entities:

> Business leagues, chambers of commerce, real estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players)[3]

It needs no elaboration to state that statutes and their supporting regulations must be read in the light of the objects sought to be achieved by Congress. In interpreting legislation, the courts must be vigilant against narrow adherence to specific regulatory language which obviously was never intended

3. As earlier stated, the football league language was not added until 1966. The significance of this fact is discussed infra at p. 24.

to apply to the facts of a case such as this.

In assessing the statutory grant of exemptions within Section 501(c)(6), the Second Circuit concluded that, "...it is the manifest intention of Congress in § 501(c)(6) to provide an exemption for organizations which promote some aspect of the general economic welfare rather than support particular private interests." (Petition for Certiorari, Appendix A, p. 5a). The court then addressed itself to the language of the supporting regulation which states that the activities of a business league "...should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons." Treas. Reg. 1.501(c)(6)-1, as cited by Court. (Pet.App.A, p.5a) (Emphasis by Court). Placing its imprimatur upon the quoted language of the regulation, the Court found that the "line of business" requirement contained therein "is well suited

to assuring that an organization's efforts do indeed benefit a sufficiently broad segment of the business community." (Pet.App.A, p.5a).

From these dual premises, the Court proceeded to affirm denial of petitioner's requested exemption: "Applying the 'line of business' requirement with a sensitivity to the general considerations which underlie it, we have little difficulty in concluding that the Association does not merit an exemption." (Pet.App.A, p.6a) The essential reason for that conclusion, however, appears to be the finding of the District Court that petitioner "...failed to establish that it conferred any benefit on muffler dealers in general. And even if the Association was able to make such a showing, the industry-wide benefit would be purely incidental to the organization's primary purpose-improving conditions for Midas dealers- and thus an insufficient basis for awarding an exemption." (Pet.,App.A, pp.6-7a)

With all due respect, we submit that the interpretation placed by the Court of Appeals upon the statutory grant of the business league exemption is far too narrow and would, if affirmed by this Court, have the effect of denying the exemption to an entire class of organizations clearly intended by Congress to benefit therefrom. There is a genuine need for associations of franchisees who must deal with common problems which are shared by no one else and, although the term "franchisee association" does not appear in the statute, the entire statutory scheme by which Congress has chosen to confer tax exemptions leaves little doubt that the term "business league" properly encompasses within its terms precisely such associations as the petitioner. In this regard, it is imperative to recognize that, enacted in 1913, Section 501(c)(6) (as well as the Treasury Regulation subsequently promulgated with respect thereto) was promulgated before franchising was even known and long before it had become, as it

now has, an integral part of the American economy.

The term "business league" first found its way into the statutory scheme established by Congress in 1913 when it was added, along with other business-oriented groups, into the section granting tax exempt status to other types of organizations:

> The House provision exempting from tax, labor, agricultural or horticultural organizations, mutual savings banks, and fraternal beneficiary societies is extended to business leagues, chambers of commerce, or boards of trade not organized for profit and to civic organizations operated exclusively for the promotion of social welfare.
> Report, Conference Committee (63d Cong., 1st Sess., H.Rept.86,p.26)

Surely the inclusion of these business-oriented organizations (business leagues, chambers of commerce, boards of trade) must be regarded as reflective of a public policy to encourage formation of such organizations. What is revealed upon analyzing the makeup of the

enumerated encouraged groups is that they are all comprised of businessmen grouping together to accomplish valid business goals which they could not accomplish by themselves. Undefined in the statute, the term "business league" was surely intended by Congress to be sufficiently flexible to encompass organizations, such as franchisee associations, not then conceived. In fact, one does not find the term "trade association" within the statute, yet trade associations are routinely granted tax exempt status as business leagues.

Indeed, the business league exemption has been granted to a number of diverse groups, including, for example: groups of businessmen whose sole common interest was to deal with legislation to improve their competitive standing in the respective businesses in which they were engaged (Rev.Rul.61-177, 1961-2 Cum. Bull.117); groups of businessmen with a common interest in dealing with labor unions representing their employees (Rev.Rul.65-164, 1965-1 Cum. Bull.238); and groups of employees with a common

interest in dealing with their employers (IRC § 501(c)(5)). In each such instance, the function of the exempt organization was to perform an activity beneficial to its members which those members could not effectively perform alone.

We are unable to fathom the strenuous opposition of the Internal Revenue Service to the requested exemption. The IRS routinely grants the business league exemption to groups of businessmen whose essential function is to collectively bargain with the unions representing their employees. Would the Second Circuit find in these exemptions a promotion of "some aspect of the general economic welfare" but fail to find such benefit when businessmen join together to collectively bargain with their common franchisor? In both instances, there exists the same benefit to the businessman- an equalization of his individual bargaining power. In the first instance his joint activity helps him to equalize his bargaining

power with the large and powerful labor union with whom he must deal. In the second instance, he is assisted in gaining bargaining parity with the large and powerful franchisor with whom he must deal. No valid reason exists to grant him the exemption in the first instance while withholding it in the second.

In National Labor Relations Board v. Truck Drivers Local Union 449, 353 U.S. 87 (1957), after noting that "Approximately four million employees are now governed by collective bargaining agreements signed by unions with thousands of employer associations...", Mr. Justice Brennan, speaking for unanimous court, went on to recognize that Congress has encouraged multi-employer bargaining as a means of strengthening the collective bargaining process in furtherance of a public policy promoting industrial peace. 353 U.S. at 95. Is there any question that the "thousands of employer associations" formed to bargain with the labor unions pursuant to

this public policy are entitled to a tax exemption? Are businessmen to be given encouragement to equalize their bargaining power vis-a-vis a countervailing force of employees but denied the same encouragement when they must bargain with an equally powerful franchisor? We submit that the answer to these questions must be "no" and that Congress could have intended no such inconsistency.[4]

In Crooks v. Kansas City Hay Dealers' Association, 37 F.2d 83, 85 (8th Cir. 1929), in affirming a business league exemption granted to a different type of association, the Eighth Circuit properly observed, "/The Government/ ... contends that Congress intended to exempt only such organizations as were

4. So, too, it would be inconsistent to assume that Congress has granted to employees the right to collectively bargain with their common employer through tax exempt labor unions (IRC § 501(c)(5)) but that it has denied the same right to franchisees who must bargain with their common franchisor. The analogy between employee-employer and franchisee-franchisor is compelling.

devoted entirely to the general public welfare. Congress did not so say." That this is so is buttressed by the grant of the exemption to the diverse groups mentioned above. Surely a group of employers organized to bargain with a labor union is not "devoted entirely to the public welfare" but seeks to benefit its members as well.[5]

This is not to say, however, that Congress did not expect some type of public benefit to flow from its grant of the business league exemption for, certainly, an exemption is conferred by Congress only in pursuit of a national public policy. In the case of the business league, the encouragement of businessmen to join together to accomplish goals which

5. Certainly members of petitioner are benefited by membership. This, however, cannot militate against the exemption. As the District Court recognized in Omaha Live Stock Traders Exchange v. U.S., 244 F.Supp. 384, 387 (Neb. 1965), "Human experience has taught us that few men would join an organization if they did not derive at least some benefit out of it."

they could not accomplish by themselves was, we suggest, directed at the creation of an economic environment favorable to the individual entrepreneur, traditionally regarded as the backbone of the American economy. This is precisely the role of the franchisee association, which gives to the individual entrepreneur encouragement to enter into business rather than being discouraged by the inherently unequal economic power between the individual franchisee and the monolithic franchisor. This creation of an economic balance between opposing forces militates against excessive consolidation of economic power and is thus consistent with the philosophy and public policy underlying this country's antitrust and labor relations laws.

The creation of this economic balance is, we submit, clearly within the type of public benefit which Congress contemplated would flow from its creation of tax exempt business organization. Nonetheless,

though this type of benefit would seem clearly to fulfill the Second Circuit's search for promotion of "some aspect of the general economic welfare," the Court proceeds to affirm denial of the exemption because of the District Court's finding that appellant "... failed to establish that it conferred any benefit on muffler dealers in general." (Pet. App.A, pp.6-7a)[6]

In Pepsi-Cola Bottlers' Association v. United States, 369 F.2d 250 (2d Cir. 1966),

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6. In fact, appellant offered evidence at trial to show that Midas' dominance in the muffler industry was such that advances made by Midas dealers had impact throughout the industry. (R.98-102, CA 112-116) The Court precluded introduction of certain other evidence which would have shown that other muffler dealers followed suit when Midas dealers received permission from their franchisor to eliminate a service charge previously imposed on the public. (R.36-40, CA 50-54) The Court below ignored appellant's contention that such preclusion was error, finding that the exemption could not be granted even if appellant had demonstrated that it conferred a benefit on the muffler industry in general. (Pet.App.A, p.7a)

the Seventh Circuit affirmed a judgment granting the business league exemption to a trade association comprised solely of individuals, firms or corporations engaged in the bottling and a sale of a single product. In that case, the Court stated, at 252:

> The plaintiff association cannot be disqualified merely because its members all bottle a particular soft drink product. It is unreasonable to write into the statute and regulations a limitation wholly unsupported by the legislative history. (emphasis added)

This is, however, precisely what the decision of the Second Circuit herein attempts to do.[7]

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7. Discussing Pepsi-Cola, the Second Circuit stated merely, in a footnote, that to the extent that its holding was in disagreement with that of the Seventh Circuit, "...we decline to follow the majority opinion in that case." (App.A, p.5a) In so stating, the Court noted, properly, that the IRS has also stated that it would not follow the Pepsi-Cola decision. Rev. Rul. 68-182, 1968 Cum.Bull. 263. It is well recognized, however, that Revenue Rulings are not law and are not in any way binding on the courts. Mercantile Bank & Trust Co. v. U.S., 312 F. Supp. 1164, aff'd. 441 F.2d 364 (8th Cir. 1970).

That Court has, we believe, permitted itself to become embroiled in a myopic reading of precedent that has little bearing on the facts of this case and that never properly considered the intent of Congress in creating the exemption in question.

Recognizing that the statute itself does not attempt to define "business league", the Second Circuit, as it did in Produce Exchange Stock Clearing Ass'n. v. Helvering, 71 F.2d 142 (2d Cir. 1934), has relied upon the doctrine of noscitur a sociis and has thus sought to define "business league" by "looking at the general characteristic which the Court finds in Section 501(c)(6) is the fostering of well-being "...within a broadly-defined segment of the commercial sector." (Pet. App.A, p.5a)[8]

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8. In Produce Exchange, the Court affirmed denial of the business league exemption finding that "...petitioner's activities are solely for the direct benefit of its so-called 'clearing members'..." and that

It is from this starting point that the Court finds within the statute the requirement that the exempt organization "promote some aspect of the general economic welfare." The Court, however, failed to address itself to the fact, raised before it by appellant, that Congress has included within the organizational grouping in the statute "professional football leagues (whether or not administering a pension fund for football players)." We strongly question whether <u>any</u> of the other

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8. (Cont'd) such activities were "...simply to provide a business economy or convenience for individual traders." (71 F.2d at 144) In fact, denial of the exemption to other trade associations has generally been due to the fact that the collective action of the individual members was apparently aimed solely at increasing the profits of its members through a business economy or convenience. We find no difficulty with this line of cases, but submit that they are irrelevant in assessing the entitlement of the appellant, whose activities have a significantly different purpose. See, e.g., <u>United States v. Omaha Live Stock Traders Exchange</u>, 366 F.2d 749 (8th Cir. 1966); <u>General Contractors' Ass'n of Milwaukee v. U.S.</u>, 202 F.2d 633 (7th Cir. 1953).

organizations grouped in Section 501(c)(6) (boards of trade, chambers of commerce, real estate boards) possesses the "general characteristics of a football league." Regardless, however, it is certain that the "general economic welfare" test espoused by the Second Circuit is satisfied <u>at least</u> as well by a nationwide franchisee association as by a football league.

Quite simply, appellant believes that a business league is properly defined in the first sentence of the applicable Treasury Regulation:

> A business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit.

The subsequent language of the regulation is, we submit, clearly intended to be illustrative only. Focusing upon the "line of business" language in the third sentence, as the Second

Circuit has done (Pet.App.A,p.5a), so as to make "line of business" a prerequisite for the exemption,ignores the fact that "business conditions" can be improved for large numbers of franchised businessmen even if together they do not engage in a "line of business." The Court's reliance upon this regulatory language ignores the very real public policy behind the creation of the business league exemption.

As has been noted throughout this case, the advent of franchising on a major scale is a relatively new economic development in the United States, fraught with problems for the franchisee which were not contemplated when Section 501 was enacted. For example, appellant introduced testimony that prior to the negotiation of a new franchise agreement by the appellant, the individual Midas franchisee, after having invested a significant amount of money and effort in his franchise,

was subject to having that franchise terminated by Midas upon 30 days notice. (R. 23, CA 37) Certainly the negotiation of a new agreement providing for a twenty year term, cancellation only for cause, an arbitration clause in the event of dispute and other benefits (R. 24, CA 38) went a long way towards encouraging the entrepreneurial efforts of those already in or contemplating entry into the business, in accordance with the public policy discussed at length above.

Moreover, as additional testimony made clear (R. 45-47, CA 59-61), franchisee associations such as the appellant serve to counter the numerous economic abuses frequently perpetrated by the franchisor, such as price fixing, forced purchase from suppliers designated by the franchisor and unjust termination. Appellant's activities are specifically directed to redressing this traditional economic imbalance on behalf of its members.

It is clear that the relatively recent advent of franchising on a major scale has brought with it its own set of unique problems affecting both the franchisee and the public. The formation of associations of franchisees who must deal with a common franchisor - their "common business interest" as required in the regulation - is nothing more than the natural outgrowth of this development, just as the formation of labor unions was a direct outgrowth of the common problems faced by employees forced to deal with large employers who were notoriously insensitive to their needs.

Indeed, that franchisee associations serve a very real and recognized public interest cannot be denied. A model statute, entitled the Franchise Fair Dealing Act, which has been introduced in a number of states, provides:

> Franchisees shall have the right to association and to select a collective bargaining agent of their own choosing

> to negotiate and deal with franchisors on matters having to do with their franchise relationship.

Moreover, a number of states have already passed legislation specifically prohibiting a franchisor from in any manner, directly or indirectly, interfering with the right of free association among franchisees for any lawful purpose. See, e.g., Franchise Practices Act, N.J.S.A., 56:10-7(b)(Chapter 356)(New Jersey); Franchise Investment Protection Act, Wash.S.A., Chapter 252, Sec. 18(2)(b)(Washington); Franchise Investment Law, M.C.L.A. § 445.1401 et.seq. (Mich.)

The courts, too, have seen the need:

> One of the traditional control mechanisms of a franchisor has been to keep its franchisees disorganized. Franchisees, by necessity, must have access to the franchise group in order to act together to deal with common problems, whether those problems be the oppressiveness of the franchisor or some less momentous concern.
> McAlpine v. AAMCO Automatic Transmissions, Inc. (D.C. Mich. 1978) 1978-1 Trade Cases ¶ 70,593 (not officially reported).

What is clear from all this is that the existence and protection of franchisee associations such as the appellant, seeking to establish an economic balance and preclude the franchisors' abuses, is clearly recognized as being necessary for franchisees and being in the public interest. Their existence goes far towards assuring that the economic power of the large, monolithic franchisor is held in check by a countervailing economic force, a valid goal which, quite patently, is clearly something the franchisees could not accomplish without joining together for the purpose. They seek not to profit by these activities, but to protect themselves.

The Second Circuit, however, has stated that even if the public interest served by franchisee associations is recognized, it is to Congress that they must turn to seek tax exemption. (Pet.App.A, p.7a) We respectfully suggest, however, that no reason exists to seek from Congress that which it has already granted.

We contend that the term "business league" contains sufficient flexibility to respond to the dynamics of our economy by recognizing the association of franchisees as already properly within its scope. Indeed, we suggest that Congress, intending the term to have such flexibility, purposely did not restrict it with definitively binding language which might have precluded the grant of an exemption to an organization such as plaintiff.[9]

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9. It is interesting to note that in the Kansas City Hay Merchants case, supra, p. 18, the Eighth Circuit seemed to recognize the broad spectrum of organizations which could be classified as a "business league." In searching for a definition, the Court looked to the definitions of its components "'Business' is defined in Black's Law Dictionary as follows: 'Business is a very comprehensive term and embraces everything about which a person can be employed,' which definition is approved by the Supreme Court /citation/ ... 'League' is defined in Webster's New International Dictionary as 'an agreement or covenant between two or more nations, parties, or persons for the accomplishment of some purpose by their cooperation.'" 37 F.2d at 85.

No new statute is needed as the exemption for franchisee associations is already contained in the existing law. Indeed, until the Second Circuit's decision below, the only case dealing with this issue was Pepsi-Cola Bottlers' Association v. U.S., op.cit., supra, at page 21 which so held. In view of that existing precedent, assuming Congress had inquired into the matter, it would have perceived no necessity for new legislation.

CONCLUSION

Denial of the business league exemption to the appellant has served to withhold the exemption from precisely the type of organization for which Congress intended it. For all the reasons set forth above, the judgment of the Court below should be reversed and a judgment should be entered setting aside the appellee's denial of the

requested exemption and directing that such exemption be granted.

Respectfully submitted,

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